

REMARKS

Claim 1 is the sole claim presently pending in this application. Claim 1 has been amended to more particularly define the claimed invention. Claims 20-36 have been canceled.

Applicant respectfully submits that entry of the currently amended claims is proper because the currently amended claims will either place the application in condition for allowance or in better form for appeal. Applicant further respectfully submits that no new matter is added to the currently amended claims, nor has the scope of the pending claims changed. Accordingly, no new issues are raised that necessitate a further search of art. Applicant respectfully traverses the rejections based on the following discussion.

I. OBJECTIONS TO THE CLAIMS

Claims 20 and 21 are objected because said claims are dependent of previously cancel claims. Applicant has canceled claims 20-21 accordingly.

II. REJECTION UNDER 35 U.S.C. § 101

Claim 1 has been rejected under 35 U.S.C. §101 as being directed toward non-statutory subject matter. Applicant has amended claim 1 to recite, “outputting said optimal price discount,” to positively recite a step of “outputting,” directed toward an “optimized price discount,” to thereby transform the underlying subject matter, (*i.e.*, the non-optimized price discount), to a different state or thing per *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972), and therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. § 101.

III. OBJECTION TO THE SPECIFICATION

The Specification is objected to and Applicant has amended the Specification in a manner believed fully responsive to all points raised by the Examiner. More specifically, Applicant has amended the Specification from page 18, line 13 to page 30, line 20, (as replaced above), to be 300 lines or less, per 37 C.F.R. § 1.52(e). The following is a list of the number of lines of programming for each of the following programming section as listed in the above Amendment to the Specification: 15 lines, (SKU item identifier class), 27 lines, (DiscountGroup class), 15 lines, (Order class), 42 lines, (OrderEntry class), 62 lines (Discount class) and 125 lines, (Discount RuleSet class), which total 286 lines of programming. Therefore, Applicant requests that the Examiner withdraw the objection to the Specification as Applicant has fully complied with 37 C.F.R. § 1.52(e).

IV. REJECTION UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claim 25 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 25 has been canceled, and therefore this rejection is now moot.

V. THE PRIOR ART REJECTION

Claims 1 and 20-36 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Herz, U.S. Pat. App. Pub. No. 2001/0014868, (hereinafter “Herz”).

Applicant’s traverse the Examiner’s rejection since, among other reasons, Herz is merely concerned with making offers to potential customers to maximize overall profit, while the claimed invention is concerned with categorizing multiple price discounts for an existing

individual customer order.

Herz discloses a system for the automatic determination of customized prices and promotions and automatically constructs product offers tailored to individual shoppers, or types of shopper, in a way that attempts to maximize the vendor's profits. These offers are communicated either to the vendor, who may act on them as desired, or to an on-line computer shopping system that directly makes such offers to shoppers. Largely by tracking the behavior of shoppers, the system accumulates extensive profiles of the shoppers and the offers that they consider. The system can then select, present, price, and promote goods and services in ways that are tailored to an individual consumer. (Abstract.)

More specifically, Applicant submits, that Herz does not teach or suggest, Applicant's claim language of, "categorizing applicable price discounts for an individual customer order, computing valid combinations of price discounts for said individual customer order, combining said valid combinations of price discounts into a price discount group, and selecting an optimal price discount based on said price discount group."

The Examiner states that Applicant's claimed, "categorizing applicable price discounts for an individual customer order," and "computing valid combinations of price discounts for said individual customer order," is allegedly taught by Herz at paragraph [0073]. However, Herz at paragraph [0073] merely discloses an offer having a number of categorized textual, numeric, or associative attributes. The actual price of an item is additionally specified as an attribute and may be presented in various manners as determined by other attribute values. However, nowhere in paragraph [0073] or anywhere else in Herz is there any disclosure concerning price discounts for an individual customer order, since Herz is only concerned with preparation of presenting an offer to solicit an order.

The Examiner states that Applicant's claimed, "combining said valid combinations of price discounts into a price discount group," is allegedly taught by Herz at paragraph [0247]. However, Herz at paragraph [0247] merely discloses integrating two or more products into a single offer based on similarity criteria of items bought by similar customers. See lines 1-15. However, nowhere in paragraph [0247] or anywhere else in Herz is there any disclosure concerning combining valid combinations of price discounts for said individual customer order into a price discount group, since Herz is only concerned with preparation of presenting an offer to solicit an order.

The Examiner states that Applicant's claimed, "selecting an optimal price discount based on said price discount group," is allegedly taught by Herz at paragraph [0240]. However, Herz at paragraph [0240] merely discloses for each product, making the highest-priced offer (including the price, advertisement and all) that the shopper is likely to accept. Since Herz fails to teach or suggest combining said valid combinations of price discounts for an individual order into a price discount group, then Herz fails to select an optimal price discount based on the price discount group.

In summary, Herz is merely concerned with making offers to potential customers to maximize overall profit, independent of any actual customer order at the time of the offer, while Applicant's claimed invention is concerned with categorizing multiple price discounts for an existing individual customer order.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection since the alleged prior art reference to Herz fails to teach or suggest each element and feature of Applicant's claimed invention.

VI. FORMAL MATTERS AND CONCLUSION

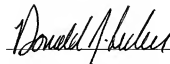
In view of the foregoing, Applicant submits that claim 1, all of the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0150.

Date: 9/19/08

Respectfully Submitted,



Donald J. Lecher, Esq.
Registration No. 41,933

GIBB & RAHMAN, LLC
2568-A Riva Road, Suite 304
Annapolis, Maryland 21401
Voice: 410-573-6501
Fax: 301-261-8825
E-mail: Lecher@gibb-rahman.com
Customer No. 29154